

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DAVID JOSEPH CONSOLI
TX-1337122-L

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DOCKETED COMPLAINT NO. 11-251

AGREED FINAL ORDER

On this the 13 day of JAN, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the licensure of David Joseph Consoli, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter David Joseph Consoli neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent David Joseph Consoli is a state licensed real estate appraiser and has been licensed by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Respondent appraised real property located at 8507 Bloom Mist Court, Houston, Texas ("the Bloom property") on or about August 4th, 2008. Respondent also appraised real property located at 5230 Yarwell Drive, Houston, Texas ("the Yarwell property") on or about December 7th, 2009.
4. On or about February 28th, 2011, a staff-initiated complaint was filed with the Board based on allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.
5. On or about March 3rd, 2011, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Bloom and Yarwell properties:

- a) Respondent failed to comply with the record-keeping provisions of the Ethics Rule for both properties;
- b) Respondent failed to identify and report the improvement(s) description adequately and did not identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends for both properties;
- c) Respondent failed to provide support and his analytical rationale for his highest and best use determination for both properties;
- d) Respondent failed to employ recognized methods and techniques in his cost approach and failed to collect, verify, analyze and reconcile the cost new of improvements and provide support and analysis for his site value determination for both properties;
- e) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach for both properties;
- f) Respondent failed to disclose, analyze and reconcile the prior sales history for the Bloom property and the contract of sale for both properties; and,
- g) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in misleading appraisal reports for both properties.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record-keeping provisions); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent made material misrepresentations and omitted material facts in violation of 22 TEX. ADMIN. CODE § 153.20(a)(9).

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- 1) Within 6 months of the effective date of this order, Respondent shall complete 3 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 6 months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- 2) Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

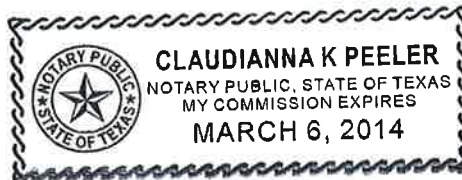
Signed this 1st day of December, 2011.

David Joseph Consoli
DAVID JOSEPH CONSOLI

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1 day of December, 2011, by DAVID JOSEPH CONSOLI, to certify which, witness my hand and official seal.

Claudianna K. Peeler
Notary Public Signature

Claudianna K. Peeler
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 12th day of January, 2012.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 13 day of July, 2012.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 13 day of Jan, 2012.

Luis De La Garza
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board